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REMARKS

The Office Action of July 27, 2006 has been received and reviewed. This response, filed along with a Petition for a One-Month Extension of Time, is directed to that action.

Claims 1-15 and 17-19 are pending.

The applicants respectfully request reconsideration based on the following remarks.

Claim Rejections- 35 U.S.C. §102

The Examiner rejected claims 1-3, 5-9, 11, and 13-15 under 35 U.S.C. §102(e) as anticipated by Morelli (US 6,524,624). The Examiner stated that Morelli teaches a two-part disinfecting system comprising a first part comprising sodium chlorite, alpha olefin sulfonate and sodium hydroxide, and a second part comprising lactic acid, alkyl benzene sulfonate and dye, wherein the two parts are mixed to yield a disinfectant composition. Furthermore, the Examiner concluded that the viscosity of the composition of Morelli will inherently fall within the range of the present claims because the components are the same. Accordingly, the Examiner stated that Morelli teaches all of the limitations of the present claims. The applicants respectfully traverse this rejection.

The applicants respectfully remind the Examiner that a *prima facie* case of anticipation requires that all limitation of the present claims are taught by the prior art. MPEP §2131. The present claims require that chlorine dioxide is generated upon mixing the alkaline composition and the acidic composition. Indeed, it is desirable and necessary that chlorine dioxide is produced, as it is the active bleaching and sanitizing agent of the present invention. However, the composition taught by Morelli contains alpha olefin sulfonate, which blocks the formation of

chlorine dioxide, because chlorine dioxide degrades the colorants used in Morelli's composition. Accordingly, Morelli teaches a wholly different composition than the present invention.

Furthermore, the Examiner relies on a theory of inherency to show that the composition of Morelli would have a viscosity in the range as disclosed in the present claims. In order to establish inherency, a reference must make clear that the missing descriptive matter is "necessarily present in the thing described in the reference". MPEP §2112. Furthermore, inherency cannot be established by mere "probabilities or possibilities". *In re Robertson*, 169 F.3d 743, 745, 49 USPQ 2d 1949, 1950-51 (Fed. Cir. 1999). The applicants respectfully submit that Morelli never mentions or alludes to the viscosity of the composition, and it certainly cannot be said that any resultant acidic composition made by mixing an alkaline component with an acidic component would have a viscosity in the range disclosed in dependent claim 2.

The Examiner additionally rejected these claims under 35 U.S.C. §102(b) as anticipated by Harrison et al. (WO 98/57544). The Examiner stated that Harrison teaches a two-part disinfecting system consisting of a first part comprising sodium chlorite and dye, and a second part comprising hydrochloric acid, wherein the two parts are combined to yield a composition that generates chlorine dioxide. Therefore, the Examiner concluded that Harrison teaches all of the limitations of the present invention. The applicants respectfully traverse this rejection. Therefore, the applicants submit that a *prima facie* case of anticipation cannot be established with regards to claims 1-3, 5-9, 11, and 13-15 over Morelli, and the applicants respectfully request that this rejection be withdrawn.

As with Morelli, discussed above, the Examiner relies on inherency in Harrison to establish a *prima facie* case of anticipation over the present claims. Again, the applicants submit

that there is nothing in Harrison to support the Examiner's contention that the composition of Harrison will necessarily have a viscosity in the range disclosed in the present claims.

Moreover, Harrison's very broad teaching (any two components that react to form a color change and a disinfectant) can only lead to the inescapable conclusion that the composition would not necessarily have a viscosity in the range disclosed in the present claims. Accordingly, a *prima facie* case of anticipation cannot be established over Harrison, and the applicants respectfully request that this rejection be withdrawn.

The Examiner also rejected the claims under 35 U.S.C. §102(e) as anticipated over Hei et al (US 6,663,902). The Examiner stated that Hei teaches a two-part disinfecting system consisting of an acidic first part and an alkaline second part comprising sodium chlorite. Thus, the Examiner concluded, Hei teaches all of the limitations of the present invention. The applicants respectfully traverse this rejection.

Because Hei does not teach that his composition will necessarily have a viscosity in the range of the present invention, the applicants must presume that the Examiner again relies on a theory of inherency to account for this deficiency. Accordingly, the applicants again submit there is nothing in Hei that would necessarily cause his composition to have such a viscosity. In fact, Hei's composition requires that the acidic component is an iodo-compound. As such, the mechanism for producing chlorine dioxide is quite different when the component is an iodo-compound than when it is not. Hei describes the differences in column 7, lines 55-62. The presence of an iodo-compound alone casts doubt as to whether Hei's composition will necessarily have the viscosity of the present claims, and the Examiner has not provided any

evidence to refute this doubt. Accordingly, the applicants submit that a *prima facie* case based on inherency cannot be established, and respectfully request that this rejection be withdrawn.

Claim Rejections- 35 U.S.C. §103

The Examiner rejected claims 1-3, 5-15 and 17-19 under 35 U.S.C. §103(a) as obvious over Morelli, as set forth above. The Examiner added that Morelli teaches ethoxylated anionic surfactants, which are among the most common surfactants known, and the inclusion of such would be an obvious choice to one of ordinary skill in the art. The applicants respectfully traverse this rejection.

Further to the applicants remarks with regard to Morelli above, it is respectfully submitted that Morelli teaches away from the present invention because he teaches the reduction and elimination of chlorine dioxide. Contrarily, the present invention requires chlorine dioxide production. In fact, Morelli states that "slowing the rate of chlorine dioxide formation leads to a longer lasting disinfectant composition with less noxious odors to the user" (col. 3, lines 50-52). Accordingly, any skilled artisan reading the foregoing passage from Morelli would be motivated to reduce and eliminate chlorine dioxide, not require its presence.

Moreover, the applicants submit that the present invention teaches a significant increase in the viscosity of the resulting composition than its individual components. Indeed, Example 1 of the present invention shows a substantial increase in viscosity of the resulting composition (774 cps) compared to each of the constituent components (5 and 4 cps respectively). A small increase may be expected; an increase of three orders of magnitude is not expected.

Therefore, the applicants respectfully submit that the present invention is not obvious in view of Morelli, and respectfully request that this rejection be withdrawn.

The applicants believe the claims are now in condition for allowance, and such favorable action is respectfully requested. If any issues remain, the resolution of which can be advanced through a telephone conference, the Examiner is invited to contact the applicant's attorney at the phone number listed below.

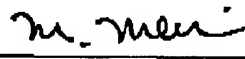
CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
NORRIS McLAUGHLIN & MARCUS, P.A.

By 
Mark D. Marin
Attorney for Applicant(s)
Reg. No. 50,842
875 Third Avenue - 18th Floor
New York, New York 10022
Phone: (212) 808-0700
Fax: (212) 808-0844